

Citation/Title

8 AAC 15.100, Payment for overtime.

*13188 8 AAC 15.100

**ALASKA ADMINISTRATIVE CODE
TITLE 8. LABOR AND WORKFORCE DEVELOPMENT
PART 1. INDUSTRIAL WELFARE
CHAPTER 15. ALASKA WAGES AND HOURS
ARTICLE 2. MINIMUM WAGES AND OVERTIME**

Current through Register 177 (April 2006)

8 AAC 15.100. Payment for overtime.

(a) An employee's regular rate is the basis for computing overtime. The regular rate is an hourly rate figured on a weekly basis. An employee need not actually be hired at an hourly rate. The employee may be paid by piece-rate, salary, commission, or any other basis agreeable to the employer and employee. However, the applicable compensation basis must be converted to an hourly rate when determining the regular rate for computing overtime compensation. The following provisions apply for an employee paid on a salary basis:

(1) The employment contract must set out the specific number of straight time and overtime hours the employee is expected to work each day and each week. The contract must establish a regular straight time hourly rate of pay and the appropriate overtime rate with respect to the salary to be paid and the number of hours to be worked. Changes to the pay schedule of a salaried employee must conform to the provisions of AS 23.05.160.

(2) If a contract fails to establish a fixed number of daily and weekly hours that the salary is intended to compensate, or if the actual hours of work deviate from the hours specified in the contract, the salary will be considered to be compensation for an eight-hour work day and 40-hour workweek, and overtime will be computed on that basis.

(b) In order to compute a regular hourly rate for the purpose of determining the overtime rate for an employee who is paid other than hourly or by salary, or if the employee's rate of pay includes bonuses, the following provisions of 29 C.F.R. Part 778 apply:

- (1) for a pieceworker, 29 C.F.R. 778.111;
- (2) for an employee who works at two or more hourly rates, 29 C.F.R. 778.115;
- (3) for an employee who receives wages in a form other than cash, 29 C.F.R. 778.116;
- (4) for an employee who receives a commission, 29 C.F.R. 778.117 - 778.122; or

*13189 (5) for an employee who receives a bonus, 28 C.F.R. 778.208 - 778.215.

(c) When computing an employee's hours for the purpose of determining overtime, the employer shall count all hours the employee worked during that week including periods of "on call" and "standby or waiting time" required for the convenience of the employer which were a necessary part of the employee's performance of the employment. However, if the employee is completely

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relieved from all duties for 20 minutes or more during which the employee may use the time effectively for the employee's own purposes, then those periods need not be counted.

(d) The following are not acceptable methods of complying with the payment of overtime provisions of AS 23.10.060:

(1) guaranteed weekly pay for variable hours plan ("Belo" contracts) established under sec. 7(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207(f) as implemented in 29 C.F.R. 778.402 - 778.414);

(2) compensatory time (comp time) off in place of payment for overtime; and

(3) flex-time or flexitime plans established under 29 C.F.R. 778.114 providing a fixed salary for fluctuating hours up to a predetermined maximum number of hours in a workweek.

(Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150)

AUTHORITY: AS 23.05.060, AS 23.10.060, AS 23.10.085, AS 23.10.095

<General Materials (GM) - References, Annotations, or Tables>

NOTES

EDITORS NOTES.

Copies of the federal regulations cited in 8 AAC 15.100 may be obtained from the department's wage and hour administration office in Anchorage at 3301 Eagle Street, Suite 301 or by writing or telephoning the office at Department of Labor and Workforce Development, P.O. Box 107021, Anchorage, Alaska 99510-7021; phone: (907) 269-4900. As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.